



## Notice of Determination

## Appendix D

## To:

☒ Office of Planning and Research  
 U.S. Mail: \_\_\_\_\_ Street Address: \_\_\_\_\_  
 P.O. Box 3044 1400 Tenth St., Rm 113  
 Sacramento, CA 95812-3044 Sacramento, CA 95814

☐ County Clerk

County of: \_\_\_\_\_  
 Address: \_\_\_\_\_

## From:

Public Agency: St. Water Resources Control Board  
 Address: DWQ, 1001 I st., 15th Floor  
 Sacramento, CA 95814

Contact: Cliff Harvey  
 Phone: (916) 558-1709

Lead Agency (if different from above):

California Department of Transportation  
 Address: 3337 Michelson Dr., Su. 380  
 Irvine, CA 92612

Contact: Smita Deshpande  
 Phone: (949) 724-2000

**SUBJECT: Filing of Notice of Determination in compliance with Section 21108 or 21152 of the Public Resources Code.**

State Clearinghouse Number (if submitted to State Clearinghouse): 2009091001

Project Title: San Diego Freeway Interstate 405 Improvement Project

Project Applicant: California Department of Transportation

Project Location (include county): I-405 between SR 73 and I-605, Orange and Los Angeles County

## Project Description:

The project would improve mainline freeway and interchanges on I-405, adding one general purpose lane in each direction of I-405 and SR-73 to SR-22 East, and a tolled express lane in each direction on I-405 between SR-73 and SR-22 East. The proposed project traverses the cities of Costa Mesa, Fountain Valley, Huntington Beach, Westminster, Garden Grove, Seal Beach, Los Alamitos, Long Beach and the community of Rossmore.

This is to advise that the State Water Resources Control Board has approved the above  
 ( ☐ Lead Agency or ☒ Responsible Agency )

described project on 4/12/2018 and has made the following determinations regarding the above  
 (date)  
 described project.

1. The project ☒ will ☐ will not have a significant effect on the environment.
2. ☒ An Environmental Impact Report was prepared for this project pursuant to the provisions of CEQA.  
☐ A Negative Declaration was prepared for this project pursuant to the provisions of CEQA.
3. Mitigation measures ☒ were ☐ were not made a condition of the approval of the project.
4. A mitigation reporting or monitoring plan ☒ was ☐ was not adopted for this project.
5. A statement of Overriding Considerations ☐ was ☒ was not adopted for this project.
6. Findings ☒ were ☐ were not made pursuant to the provisions of CEQA.

This is to certify that the final EIR with comments and responses and record of project approval, or the negative Declaration, is available to the General Public at:

Caltrans, Dist. 12, 3347 Michelson Dr., Su. 100, Irvine, CA 92612

Signature (Public Agency):

(Eileen Soback)

Title: Executive Director

Date: 4/12/2018

Date Received for filing at OPR:

State Office of Planning & Research

Authority cited: Sections 21083, Public Resources Code.  
 Reference Section 21000-21174, Public Resources Code.

APR 12 2018

STATE CLEARINGHOUSE

Revised 2011

**A. Environmental Review**

On March 26, 2015, the California Department of Transportation (Caltrans), as lead agency, certified a Final Environmental Impact Report (FEIR)) (State Clearinghouse (SCH) No. 2009091001) for the Project and filed a Notice of Determination (NOD) at the SCH on June 17, 2015. The State Water Board is a responsible agency under CEQA (Pub. Resources Code, § 21069) and in making its determinations and findings, must presume that Caltrans' certified environmental document comports with the requirements of CEQA and is valid. (Pub. Resources Code, § 21167.3.) The State Water Board has reviewed and considered the environmental document and finds that the environmental document prepared by Caltrans addresses the Project's water resource impacts. (Cal. Code Regs., tit. 14, § 15096, subd. (f).) The environmental document includes the mitigation monitoring and reporting program (MMRP) developed by Caltrans for all mitigation measures that have been adopted for the Project to reduce potential significant impacts. (Pub. Resources Code, § 21081.6, subd. (a)(1); Cal. Code Regs., tit. 14, § 15091, subd. (d).)

**B. Incorporation by Reference**

Pursuant to CEQA, these Findings of Facts (Findings) support the issuance of this Order based on the Project FEIR, the application for this Order, and other supplemental documentation, including the water quality certification application and the Los Angeles District of the US Army Corps of Engineers Letters of Permission (LOP) Procedures (accessible at <http://www.spl.usace.army.mil/Media/Public-Notices/Article/1405279/spl-2012-00830-vcl-orange-county-transportation-authority-renewed-measure-m-m2/>).

All CEQA project impacts, including those discussed in subsection C below, are analyzed in detail in the Project FEIR which is incorporated herein by reference. The Project FEIR is available at: <http://dot.ca.gov/dist12/DEA/405/index.php#DEIS>.

Requirements under the purview of the State Water Board in the MMRP are incorporated herein by reference.

The Permittee's application for this Order, including all supplemental information provided, is incorporated herein by reference.

**C. Findings**

The FEIR describes the potential significant environmental effects to water resources. Having considered the whole of the record, the State Water Board makes the following findings:

1. Findings regarding impacts that will be avoided or mitigated to a less than significant level. (Pub. Resources Code, § 21081, subd. (a)(1); Cal. Code Regs., tit. 14, § 15091, subd. (a)(1).)

*Changes or alterations have been required in, or incorporated into, the Project which avoid or substantially lessen the significant environmental effect as identified in the FEIR.*

a.i. Potential Significant Impact: EIR section 3.2.1, Flooding and Flood Plain Impacts:  
The Project could potentially affect flood plain functions and flood hydrology in the project area through flood plain encroachments such as channel modifications, and construction of bridges and bridge supports in flood channels.

a.ii. Facts in Support of Finding: The proposed project has been designed to minimize impacts, where possible, by taking reduced amounts of rights-of-way and limiting the grading footprint to minimize impacts to existing structures. All transitions between culvert outlets, headwalls, wingwalls, and channels would be smoothed to reduce turbulence and scour. Minimization measures for floodplain impacts include:

- HYD-1: Project design elements will include bridge pier alignment paralleling the direction of flow to minimize flow obstruction;
- HYD-2: Bridges will be designed with sufficient freeboard above the 100-year water surface elevation to prevent the bridge deck from impacting flood flows;
- HYD-3: Positive drainage will be provided during construction and refrain from diverting flows;
- HYD-4: Recommended BMPs will be implemented;
- HYD-5: In-river construction and post construction shall include erosion control and water quality protection;
- HYD-6: A contingency plan shall be developed for unforeseen discovery of underground contaminants;
- HYD-7: Construction activities between October and May shall be limited to those actions that can adequately withstand high flows and entrainment of construction materials; and
- HYD-8: Adequate conveyance capacity will be provided at bridge crossings to ensure no net increase in velocity.

These measures, if implemented, are likely to reduce the risks of increased flooding or flood damage to a level that is less than significant.

b.i. Potential Significant Impact: EIR Section 3.2.2, Stormwater and water quality

With the increase in impervious surface area associated with the Project, the chance for additional roadway pollutants to be discharged to the receiving water also increases. Additionally, the increased runoff generated from the additional impervious surface may increase the potential for erosion downstream.

b.ii. Facts in Support of Finding: Caltrans has developed a Stormwater Management Plan (SWMP) that describes the procedures used to reduce or minimize the discharge of pollutants associated with the stormwater drainage systems that serve highways and highway-related properties, facilities, and activities. Section 3 of the Statewide SWMP describes BMP categories that are used by Caltrans to meet the MEP and best conventional technology/ best available technology (BCT/BAT) requirements and to address compliance with water quality standards. Three general categories of BMPs have been identified for use in the Statewide SWMP:

- Category I BMPs: Technology-based pollution prevention controls to meet the MEP requirements for designing and maintaining roadways and related facilities.
- Category II BMPs: Temporary Construction Site BMPs to meet BCT/BAT requirements for construction projects that disturb 5 or more acres.
- Category III BMPs: Treatment BMPs to meet MEP requirements. Treatment BMPs are permanent treatment devices and facilities. Examples of Treatment



BMPs include biofiltration strips/swales, detention devices, infiltration basins, and media filters.

These plan elements will be implemented through implementation of mitigation measure WQ-1 which requires conformance with Caltrans Statewide National Pollutant Discharge Elimination System (NPDES) Storm Water Permit, Order No. 2012-0011-DWQ, NPDES No. CAS000003 and the requirements of the General NPDES Permit for Construction Activities, Order No. 2009-0009-DWQ, NPDES No. CAS000002 and any subsequent permit in effect at the time of construction. In addition, measure WQ-2 requires preparation of a Stormwater Pollution Prevention Plan that would be consistent with Category II BMPs cited above. Measure WQ-3 requires that the project conform to Order No. R8-2009-0003 NPDES No. CAG998001, *General Waste Discharge Requirements for Discharges to Surface Water which Pose an Insignificant (De Minimis) Threat to Water Quality*, from the Santa Ana Regional Water Quality Control Board (RWQCB). In addition, Dewatering BMPs will be used to control sediments and pollutants. A laboratory, certified under either the Environmental Laboratory Accreditation Program or the National Environmental Laboratory Accreditation Program, will test and monitor any discharge for compliance with RWQCB requirements.

Long-term post-construction measures are also proposed. Measure WQ-4 requires that maintenance of project post-construction BMPs will be conducted in accordance with Caltrans policies. Measure WQ-5 requires permanent soil stabilization systems in project final designs. Measure WQ-6 requires implementation of treatment BMPs to the maximum extent practicable; these may include infiltration devices, detention devices, biofiltration strips/swales, dry weather flow diversion, media filters, multi-chamber treatment trains, wet basins, gross solids removal devices and similar measures.

These measures are consistent with construction industry best practices, and if implemented are likely to reduce stormwater impacts, including effects associated with increased impervious surfaces in the affected watersheds, and effects associated with construction-phase runoff pollution, to a level that is less than significant.

c.i. Potential Significant Impact: EIR, Sec. 3.2.5, Hazardous Waste/Materials:

Construction of the Project may result in spills and leaks of pollutants, including toxic and hazardous materials. Construction of the project is expected to encounter contaminated soils from various sources identified through prior enforcement actions (e.g., gas stations) and spills from past highway accidents.

c.ii. Facts in Support of Finding: Various measures are proposed to address potential impacts to water quality due to presence or discharge of hazardous waste and hazardous materials. In addition to routine "Housekeeping" measures that would be required as part of compliance with Measure WQ-1 (described above), the following measures would be implemented:

- HAZ-1: Prior to completion of the Final Design, sampling for aerially deposited lead (ADL) shall be conducted by OCTA within unpaved locations adjacent to the existing roadway ROW within the study area if such locations have not been tested.

- HAZ-2: Prior to construction, if still present, two 30-gallon open trash bins and two 5-gallon buckets that were dumped in the I-405 northbound shoulder just south of the I-605 interchange shall be removed and properly disposed of by the contractor.
- HAZ-3: During the construction phase, the upper 2 ft of soil excavated along the I-405 northbound shoulder from the I-605/I-405 connector to approximately 1,000 ft south of the I-605/I-405 connector shall be set aside and tested for TPH (gasoline and diesel) by the contractor before being disposed of or reused at the site.
- HAZ-4: If signs of potential impacts (e.g., odors, discolored soil, and any hazardous waste) are observed during construction activity, construction shall cease and the California Department of Transportation's Unknown Procedures for Construction shall be followed. If groundwater is encountered during construction activities, or if construction dewatering is necessary, then sampling and analysis of groundwater shall be conducted to identify the appropriate management and disposal of the groundwater.

These measures are consistent with construction industry best practices, and if implemented are likely to reduce impacts due to spills, leaks, or disturbance of contaminated soils to a level that is less than significant.

d.i. Potential Significant Impact: EIR Section 3.3.1. Impacts to Natural Communities.

Vegetation communities that would be temporarily impacted within the BSA include areas classified in the EIR/EIS as Developed and Drainage vegetated communities. The project is not anticipated to permanently or temporarily affect natural communities of special concern, including the Riparian community; however, avoidance and minimization measures are proposed:

d.ii. Facts in Support of Finding: Mitigation Measure BIO-1 requires that Prior to clearing or construction, highly visible barriers (e.g., orange construction fencing) will be installed around riparian/riverine vegetation adjacent to the project footprint to designate Environmentally Sensitive Areas (ESA) to be preserved. No grading or fill activity of any type will be permitted within these ESAs.

e.i. Potential Significant Impact: EIR Section 3.3.2 Impacts to Wetlands. The project build alternatives would result in temporary effects and/or permanent loss to waters of the U.S./State within jurisdictional areas. Nineteen drainages to be impacted are either modified natural drainages, modified natural drainages that function as artificial drainages, and artificial drainages. All provide a low level of ecological functions and are in low ecological condition. While temporary and permanent impacts to these drainages are expected to have no significant effect on the existing ecological function and condition of these waters, those impacts will occur.

e.ii. Facts in Support of Finding: Mitigation Measures are proposed to address the potential temporary and permanent impacts to wetlands and other waters. Measure BIO-2a requires pre-project delineation of waters, and compensatory mitigation for unavoidable impacts, as well as acquisition of appropriate permits. Measure BIO-3

requires that avoided ESAs, including waters and wetlands, be protected with highly visible barriers prior to construction. These measures, when implemented through the conditions of this certification, are likely to reduce Project impacts to wetlands and other waters to a level that is less than significant.

f.i. Potential Significant Impact: Invasive Plants and Noxious Weeds (EIR Sec. 3.3.6)

The project would have the potential to spread invasive species by the entering and exiting of construction equipment contaminated by invasives, the inclusion of invasive species in seed mixtures and mulch, and the improper removal and disposal of invasive species so that seed is spread along the highway.

f.ii. Facts in Support of Finding: With implementation of Minimization and Avoidance Measure BIO-10, temporary invasive species impacts are not anticipated. Under BIO-10, weed control will be performed to minimize the importation of nonnative plant material during and after construction; eradication strategies will be employed should an invasion occur; measures addressing invasive species abatement and eradication will be included in the project design and contract specifications; and revegetation with native species will be conducted.

2. No findings regarding mitigation measures which are the responsibility of another agency are made for this project. (Pub. Resources Code, § 21081, subd. (a)(2); Cal. Code Regs., tit. 14, §15091, subd.(a)(2).)
3. No statement of overriding considerations for any resources subject to the Water Boards' authorities was made in this EIR/EIS (Pub. Resources Code, § 21081, subd (b); Cal. Code Regs., tit. 14, § 15093.).

**D. Determination**

The State Water Board has determined that the Project, when implemented in accordance with the MMRP and the conditions in this Order, will not result in any significant adverse water quality or supply impacts. (Cal. Code Regs., tit. 14, § 15096, subd. (h).) The State Water Board will file a NOD with the SCH within five (5) working days from the issuance of this Order. (Cal. Code Regs., tit. 14, §§ 15096, subd. (i).)